THE HONOURABLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No :19219 OF 2007

DATED:11-09-2007

BETWEEN:

Somisetti Venkateswara Rao @ Balaji & another.

..... PETITIONERS

AND

The Tahsildar,
Vijayawada rural mandal,
Vijayawada,
Krishna District & another.

.....RESPONDENTS

_
_
_
_
_
_

ORDER:

Heard learned counsel appearing for the petitioners as well as the learned Government Pleader for Revenue appearing for the respondents.

2. Petitioners seek a writ of mandamus declaring the action of the 1st respondent in issuing the impugned notice under Rule 3(2) of the A.P.Assigned Land (Prohibition of Transfers) Rules, 2007 (for brevity, 'the Rules') contrary to the proceedings Rc.No.E2-12221A/49, dated 14-09-1950, issued by the 2nd respondent and under Section 3(5) of the A.P.Assigned Land (Prohibition of Transfers) Act, 1977 (for brevity, 'the Act') as illegal and arbitrary.

3. Petitioners question the Form II notice issued under Rule 3 of the Rules calling upon the petitioners to submit an explanation within fifteen days as to why they should not be summarily dispossessed from the extent of Ac.0.22 cents in Sy.No.118/3M2; Ac.0.25 cents in Sy.No.118/3N; and
Ac.0.73 cents in Sy.No.118/3N on the ground that the said lands are in illegal possession of the petitioners in contravention of the provisions of sub-Section (2) of
Section 3 of the Act.

4. It is the case of the petitioners that the said agricultural lands have been allotted for the purpose of personal cultivation in favour of one Mandali Yacobu and

Yadavalli Isaku by proceedings of the 2nd respondent-District Collector in Rc.No.A2-12221-A/49, dated 14-09-1950, and as per the said assignment order there is a prohibition of alienation only for a period of ten years and after the prohibited period of ten years of alienation petitioners have purchased the said property in the year, 1981. Thus, it is the contention of the petitioners that there is no contravention of the assignment order.

5. I am not inclined to express any opinion with regard to the merits of the case as the notices issued are only show cause notices and in fact, petitioners have already said to have been filed explanations within the prescribed time and the enquiry is pending before the 1st respondent.

6. Having regard to the facts and circumstances of the case, 1st respondent is directed to consider and dispose of the said representations after giving reasonable opportunity in accordance with law and till final orders are passed petitioners shall not be dispossessed.

7. Accordingly, Writ Petition is disposed of. No order as to costs.

_____

V.ESWARAIAH,J

11th September, 2007.
Tsy